

Maryland

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT

1100 North Eutaw Street
Baltimore, Maryland 21201
(301) 333-5033



William Donald Schaefer, Governor
J. Randall Evans, Secretary

BOARD OF APPEALS

Thomas W. Keech, Chairman
Hazel A. Warnick, Associate Member
Donna P. Watts, Associate Member

— DECISION —

	Decision No.:	841-BH-88	
	Date:	Sept. 16, 1988	
Claimant:	James I. Butler, Jr.	Appeal No.:	8804894
		S. S. No.:	
Employer:		L.O. No.:	22
		Appellant:	AGENCY
Issue:	Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) of the law.		

—NOTICE OF RIGHT OF APPEAL TO COURT —

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAYBE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE CIRCUIT COURT OF BALTIMORE CITY, IF YOU RESIDE IN BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT ON October 16, 1988

— APPEARANCES —

FOR THE CLAIMANT:

FOR THE EMPLOYER:

Claimant Not Present

DEPARTMENT OF ECONOMIC AND EMPLOYMENT DEVELOPMENT
John T. McGucken - Legal Counsel

EVALUATION OF THE EVIDENCE

The Board of Appeals has considered all of the evidence presented, including the testimony offered at the hearings. The Board has also considered all of the documentary evidence introduced in this case, as well as the Department of Economic and Employment Development's documents in the appeal file.

FINDINGS OF FACT

The claimant was issued a claim certificate for the claim week ending April 9, 1988. The claim certificate had to be returned by April 23, 1988 in order for the claimant to receive benefits. The claim certificate was not received until April 26, 1988 and the claimant received no benefits for that period.

However, as a result of this late filing, the claimant was denied benefits for the weeks ending April 16th, April 23rd and April 30th. When the claim certificate for April 9th was received late, the claimant's claim was closed and no further claims certificates were mailed to the claimant. Instead, the claimant was sent a letter telling him to come into his local office on May 3.

On May 3 it was confirmed that the claimant had mailed the claim certificate for the week ending April 9th late, but that he was still unemployed. The claimant insisted on and did file claims certificates for the weeks ending April 16th, April 23rd and April 30th and his case was reopened. The claimant was denied benefits for the weeks ending April 16th, April 23rd and April 30th because he was considered not to be in claim status for those weeks. The claimant was not in claims status due to the agency's policy that when claim certificates are received late the case is automatically closed and is not reopened until such time as the claimant comes into the local office.

The agency is now in a computerized system by which claims certificates must be received on a bi-weekly basis. Therefore the claims certificates for the weeks ending April 16th and April 23rd would have been due no later than May 7th and the claims certificates for the week ending April 30th would have been due no later than May 14th.

CONCLUSIONS OF LAW

The claimant's claim certificate for the week ending April 9, 1988 was not filed in a timely manner and therefore, benefits for that week must be denied.

However, the claim certificates for the weeks ending April 16th, April 23rd and April 30th were filed in a timely manner.

The claimant had no information to advise him that late filing for one week would result in the case being closed. The claimant also had no way of knowing his case would have to be reopened in order for him to start receiving benefits again. All this knowledge was in the jurisdiction of the agency.

To deny the claimant benefits for four weeks when in fact his claims were only filed late for a period of one week is unconscionable and clearly not the intent of the Maryland Unemployment Insurance Law. The fact that the agency is now using computers should not be allowed to deny the claimant benefits to which he is entitled. The claimant found himself in this situation due to human error and even though this error could not be automatically corrected by the computers it certainly can be corrected by the agency when the claimant presents himself in person in a timely manner. The claimant is denied benefits for the week ending April 9, 1988 due to the untimely filing of his claim certificate within the meaning of Section 4(b) of the Maryland Unemployment Insurance Law and the regulations of COMAR, the Code of Maryland Regulations governing unemployment insurance administration. The claim certificates for the weeks ending April 16th, April 23rd and April 30th were however filed in a timely manner and the claimant will not be disqualified for benefits for those weeks. The decision of the Hearing Examiner is affirmed.

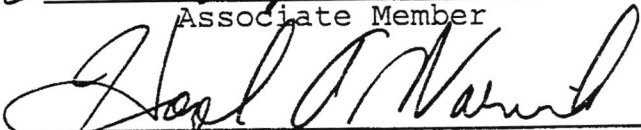
DECISION

The claimant failed to file timely and proper claims for benefits within the meaning of Section 4(b) of the Maryland Unemployment Insurance Law. Benefits are denied from April 3 to April 9, 1988. The claimant filed timely claim certificates for the weeks ending April 16, 1988, April 23, 1988 and April 30, 1988.

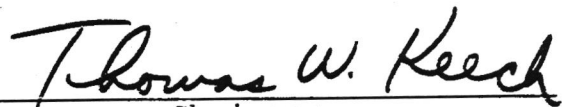
The decision of the Hearing Examiner is affirmed.



Associate Member



Associate Member



Chairman

kmb

DATE OF HEARING: August 16, 1988

COPIES MAILED TO:

CLAIMANT

John T. McGucken - Legal Counsel

Allan Berman - Asst. U. I. Director

Virginia Matter

UNEMPLOYMENT INSURANCE - BEL AIR

STATE OF MARYLAND
APPEALS DIVISION
1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201
(301) 383-5040

STATE OF MARYLAND
William Donald Schaefer
Governor

- DECISION -

Date: Mailed June 14, 1988
Claimant: James I. Butler, Jr. Appeal No: 8804894
S.S. No.:
Employer: L.O. No.: 22
Appellant: Claimant
Issue: Whether the claimant filed proper claims for benefits within the meaning of Section 4(b) of the Law.

-- NOTICE OF RIGHT OF FURTHER APPEAL --

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE OR WITH THE APPEALS DIVISION, ROOM 515, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON June 29, 1988
NOTICE, APPEALS FILED BY MAIL, INCLUDING SELF-METERED MAIL, ARE CONSIDERED FILED ON THE DATE OF THE U.S. POSTAL SERVICE POSTMARK.

-- APPEARANCES --

FOR THE CLAIMANT:

Present

Other: Mrs. Maxine Bowers,
Claims Specialist 111,
U. I. Bel Air Local Office

FOR THE EMPLOYER:

FINDINGS OF FACT

The claimant's benefit year for unemployment insurance purposes commenced November 15, 1987. For the claim week ending April 9, 1988 a claim certification was issued by the computer center of the Unemployment Insurance Administration on April 7, 1988. The claimant had fifteen days to complete the claim certification starting with April 9, 1988. The claim certification was in fact received by the computer center on April 26, 1988. The claimant

completed his claim certification and placed it in his jacket pocket. It stayed there for several days before he found it again and mailed it. He agrees that he mailed the claim certification for the week ending April 9, 1988 in late.

The claimant was then given an appointment to come into the Bel Air office of the Unemployment Insurance Administration on May 3, 1988. At that time, a statement was taken from him regarding the late filing of the claim certification for the week ending April 9, 1988, and also claims were taken for the weeks ending April 16, April 23, and April 30, 1988. The claimant was then disqualified from the receipt of benefits from April 3 to April 30, 1988 because he was not in claim status after he failed to complete his claim certification for the week ending April 9, 1988 in a timely fashion.

The Unemployment Insurance Claims Specialist testifies that the policy of the Agency is that one must be in claim status and re-open one's claim in order not to be automatically denied benefits for four weeks when one week's claim certification is late.

CONCLUSIONS OF LAW

The evidence clearly shows that the claimant failed to file a timely claim for the week ending April 9, 1988. Clearly, he must be disqualified from the receipt of benefits for this week.

However, it is recognized that the Unemployment Insurance Administration is on a computer system. Claimants, therefore, who complete claim certifications in a timely fashion and mail them back to the computer center's mailing address are automatically issued by the computer center new claim certifications and they do not have the problems that the claimant encountered in this case. It also logically follows that a claimant should be denied benefits for the claim certification for the claim week in which he failed to send in a certification in a timely fashion. However, if the claimant has fifteen days from the close of a claim week to file a claim certification and presents himself in answer to an appointment letter in the office on May 3, 1988, he cannot logically and should not logically be denied benefits for the weeks ending April 16, April 23, and April 30, 1988. The net effect of this policy is to automatically deny a claimant benefits for many weeks when in fact only one week's claim certification was late.

There is nothing published by the Unemployment Insurance

Administration that advises a claimant that failure to immediately correct a late mailing of a claim certification may automatically deny a claimant for three additional weeks or for many additional weeks. There is general information contained in an informational booklets that advise claimants that claims should be filed in a timely fashion. To automatically deny a claimant for four claim weeks when only one claim certification form was late, namely, for the weekending April 9, 1988, is unconscionable and in contravention of the intent expressed by the Maryland Legislature section 2 of the Maryland Unemployment Insurance Law.

It may be correct that the claimant in order to be eligible for benefits not only has to file proper claim certifications in a timely fashion but also must be in "claim status". The proper forms and procedures to place a claimant back in proper claim status is within the jurisdiction of the Unemployment Insurance Administration. When a claimant presents himself to the Local Office on May 3, 1988, and fills out whatever forms he is given, he should be given forms to reopen his claim as of that date and he should be found eligible for the Claim weeks that he did not complete claim certifications since he is within two weeks after the claim, closing date to reopen his claim. To do otherwise is to unconscionably deny claimants for a total of four weeks when in fact all the claimant did was file a claim certification for the one week ending date, namely, the week ending April 9, 1988. It must be found that the claimant failed to file timely claims within the meaning of Section 4(b) and the applicable Regulations for the claim week ending April 9, 1988. He will be found eligible for the other claim weeks.

DECISION

The claimant has failed to file timely and proper claims for benefits within the meaning of Section 4(b) and the applicable Regulations of COMAR-the Maryland Code of Regulations governing the Unemployment Insurance Administration. Benefits are denied from April 3, to April 9, 1988.

While the determination of the Bel Air, Maryland Unemployment Insurance Administration Office is affirmed, the disqualification

is modified in favor of the claimant.

J. Martin Whitman
J. Martin Whitman
Hearing Examiner

Date of Hearing on May 27, 1988:

1dd
7393(Specialist I.D: 22152)

Copies Mailed on May 27, 1988 to:

Claimant
Unemployment Insurance - Bel Air (MABS)

Allan Berman, U. I. Director